

# **ADMINISTRATIVE PLAN**

**Housing Choice Voucher Program  
Moderate Rehabilitation Program  
Family Self-Sufficiency**

## **State of California**

**Business, Transportation and Housing Agency  
Department of Housing and Community Development  
Division of Community Affairs  
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**ADMINISTRATIVE PLAN**

APPROVED BY:

	Date
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## I. STATEMENT OF POLICIES AND OBJECTIVES

The Section 8 Program was created by the Housing and Community Development Act of 1974 and amended by the Housing and Community Development Act of 1981, the Housing and Urban-Rural Recovery Act of 1983, the Technical Amendments Act of 1984, the Housing and Community Development Act of 1987, and the Quality Housing and Work Responsibility Act (QHWRA) of 1998.

### Introduction

The California Department of Housing and Community Development (HCD) acts as the Public Housing Agency (PHA) in the administration of the Section 8, Family Self-Sufficiency and Section 8 Moderate Rehabilitation housing programs. Functions and responsibilities of the HCD staff shall be in compliance with the personnel policy of HCD and the Equal Opportunity Housing Plan (EOHP). All Federal, State and local housing laws will be followed and HCD will comply with Fair Housing Regulations.

HCD administers Section 8 Housing Choice Voucher Programs in 12 rural counties: Alpine, Amador, Calaveras, Colusa, Glenn, Inyo, Modoc, Mono, Sierra, Siskiyou, Trinity, and Tuolumne. In addition, HCD administers a Section 8 Moderate Rehabilitation project in Tuolumne County.

### Jurisdiction

HCD contracts with Subcontractors for specified administrative services in the counties mentioned above, with the exception that HCD provides direct administrative services to Alpine County and Sierra County.

### Subcontractors

The administrative services provided by HCD/Subcontractors include outreach to tenants and owners, waiting list management, determination of client eligibility, issuance of Housing Choice Vouchers, tenant and owner briefings, HQS inspections, annual re-certifications and inspections and interim adjustments. The Subcontractors are paid 70.6% of the earned administrative fee.

The four major objectives of the Section 8 Program are to:

### Section 8 Program Purpose

- Provide improved living conditions for very low-income families while maintaining their rent payments at an affordable level;
- Promote freedom of housing choice and spatial de-concentration of lower income and minority families;
- Provide decent, safe and sanitary housing for eligible participants; and
- Provide an incentive to private property owners to rent to lower income families by offering timely assistance payments.

[24 CFR 982.1]

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The purpose of the Administrative Plan is to establish policies for items that are not covered under Federal regulations for the Section 8 Voucher, Moderate Rehabilitation and Family Self-Sufficiency Programs.

**Administrative  
Plan Purpose**

[24 CFR 982.54]

The Plan covers both admissions and continued participation in these programs. Policies are the same for all programs, unless otherwise noted.

HCD/Subcontractors are responsible for complying with all subsequent changes in Federal regulations pertaining to these programs. If such changes conflict with this Plan, Federal regulations will have precedence.

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It is the policy of HCD to comply fully with all Federal, State, and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

**Fair Housing  
Policy**

[24 CFR  
982.54(d)(6);  
982.304]

Specifically, HCD shall not on account of race, color, sex, religion, creed, national or ethnic origin, age, family or marital status, handicap or disability deny any family or individual the opportunity to apply for or receive assistance under HUD's Section 8 Housing Assistance Programs, within the requirements of the HUD regulations.

To further its commitment to full compliance with applicable Civil Rights laws, HCD will provide Federal/State/local information to Section 8 participants regarding "discrimination" and any recourse available to them should they feel they have been the victim of discrimination. Such information will be made available during the family briefing session and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the Housing Choice Voucher holder's packet.

HCD subscribes to HUD's "open-housing" policy and, as such, directs Subcontractors to maintain a list of available housing submitted by owners in all neighborhoods within the Subcontractor's jurisdiction to ensure greater mobility and housing choice to extremely low and very low-income households served by the Subcontractor.

Disabled applicants and participants who require a reasonable accommodation due to their disability should submit a written request for the specific accommodation needed so that HCD/Subcontractor can accommodate the need. The request should include supporting documentation from the disabled person's physician.

HCD will review and update its Equal Opportunity Housing Plan, as needed, to ensure that these objectives are being met.

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All applicants are required to sign the Federal Privacy Act Statement form, which states the conditions under which HUD/HCD/Subcontractors will release tenant information.

**Privacy Rights  
and Security of  
Tenant Files**

Section 8 practices and procedures are designed to safeguard the privacy of applicants and Program participants. All applicant and participant files will be stored in a secure location that is only accessible by **authorized** staff.

[24 CFR 5.212]

HCD tenant files will be retained for seven years after cancellation/termination. After seven years, the tenant files will be confidentially destroyed (shredded) to ensure privacy/confidentiality. Any document containing an applicant, tenant, or landlord's social security number or other confidential item that is no longer required, will be confidentially destroyed (shredded) to ensure privacy/confidentiality.

All Subcontractors will retain tenant files for three years.

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HCD is located in Sacramento, California and administers the Section 8 Housing Assistance Program (HAP) through the Los Angeles HUD office and the Sacramento HUD Office. The Housing Assistance Program is in the Division of Community Affairs, State of California, Department of Housing and Community Development.

**HCD/HAP  
Organization**

HCD's HAP staff includes:

- Program Manager;
- Housing and Community Development Representative II (Program);
- Housing and Community Development Representative I (Financial);
- Office Assistant

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Subcontractor staff positions vary from Subcontractor to Subcontractor. Staffing can include the following:

**Subcontractor  
Organization**

- Program Specialist
- Housing Coordinator
- Housing Specialist
- Accountant
- Secretary
- Building Maintenance Worker
- Inspector
- Executive Director

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In order to demonstrate compliance with HUD and other pertinent regulations, HCD/Subcontractor will maintain records, reports and other documentation for a time that is in accordance with HUD requirements and in a manner that will allow an auditor, housing professional or other interested party to follow, monitor and/or assess HCD's/Subcontractor's operational procedures objectively and with accuracy.

**Records for  
Monitoring  
Performance**



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HCD/Subcontractor publicizes and disseminates information, as needed, concerning the availability and nature of housing assistance for extremely low and very low-income families. HCD/Subcontractor will provide notification to the public of the availability and nature of housing assistance for extremely low and very low-income families. Such notification will begin at least 30 days prior to the opening of the waiting list through publication of notices in newspapers of local circulation, minority media, and other suitable means.

**Family Outreach**

[24 CFR  
982.201(b)(2)]

**The Notice shall:**

- Advise the public that applications will be taken at a designated date, time, location and what, if any, preferences are being accepted; and
- Briefly describe the Section 8 Program.

To reach persons who do not have access to a local newspaper, HCD/Subcontractor shall distribute fact sheets to libraries, social service offices and other agencies as determined appropriate by HCD/Subcontractor.

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HCD/Subcontractor issues public invitations to owners as needed to make dwelling units available for leasing by eligible families in accordance with the Equal Opportunity Housing Plan. On a continuing basis, HCD/Subcontractor will welcome the participation of owners of decent, safe, and sanitary housing units.

**Owner Outreach**

[24 CFR  
982.54(d)(5);  
982.153]

HCD/Subcontractor makes personal contact through formal or informal discussions/meetings with private property owners, property managers, and real estate agencies. Program requirements are explained and printed material is offered to acquaint the owner/manager with the opportunities available under the Program.

HCD/Subcontractor maintains a list of interested landlords and their property available for the Section 8 Program and updates this list as new information is received. When new units become available, Program staff will make the information available to prospective tenants.

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Tenant-based assistance will be offered to eligible residents of projects covered by the Emergency Low-Income Housing Preservation Act of 1987 (ELIHPA) and the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA). Families must meet two separate criteria in order to be eligible for a preservation voucher:

**Preservation**

- The resident family must be income eligible on the effective date of the prepayment, and
- As a result of the owner's rent increase occurring no later than one year after the prepayment, the family would have to pay more than 30% of their monthly-adjusted income for rent unless the family received Section 8 tenant-based assistance.

Both assisted and unassisted residents may be eligible for preservation tenant-based assistance. In order to be eligible for one of the special rental vouchers, the resident must be either:

- A low-income family;
- A moderate-income elderly or disabled family; or
- A moderate-income family residing in a low-vacancy area (3% or less vacancy rate). HUD is responsible for determining whether the project where the owner is prepaying or voluntarily terminating the mortgage insurance is located in a low-vacancy area.

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HCD/Subcontractor will permit use of any special housing type if it is needed as a reasonable accommodation to provide accessibility for persons with disabilities. Need shall be determined on a case-by-case basis.

**Special Housing Types**

[24 CFR 982.601]

## II. ELIGIBILITY FOR ADMISSION

To be eligible for admission to the Section 8 Program, an applicant must meet HUD's criteria for eligibility determination. The factors for eligibility are:

### Criteria

[24 CFR  
982.552(b), (c);  
982.201(1)]

- The applicant must be a family
- The household's annual income shall not exceed the applicable income limit;
- All family members six years or older must provide a Social Security Number or certify they do not have one;
- The applicant must furnish evidence of citizenship or eligible immigrant status;
- No member of the household is currently engaging in, or has engaged during the previous 12 months, in any drug-related criminal activity, any violent criminal activity, or any criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises by other residents; and
- No member of the household can be subject to a lifetime registration requirement under the State sex offender registration program.

The following criteria shall also be met for an applicant to be eligible for assistance under the Section 8 Program:

- The family may not have any outstanding debt owed HCD or any other Housing Authority on any previous tenancy for Public Housing or Section 8. **No repayment agreement (between any housing authority and the tenant) will be accepted. The family must repay in full any amount owed to be considered eligible for admission.**
- A family whose assistance was terminated due to any family obligation violation under the Section 8 Program will not be assisted for three years from the date of termination.
- Assistance is denied if any family member engages in drug related, violent criminal activity, abuses the use of alcohol, or is registered under a state sex offender registration program.

Drug-related activity means the felonious manufacture, sale or distribution, or the possession with intent to manufacture, sell or distribute a controlled substance. (The felonious use or possession of a controlled substance must have occurred within one year before the date that HCD/Subcontractor provides notice to an applicant/participant of HCD's/Subcontractor's determination to deny admission or terminate assistance.)

Violent criminal activity includes any felonious criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property of another.

**Admission to the Section 8 Program is immediately and permanently denied to individuals convicted of manufacturing or producing methamphetamine in violation of any Federal, State or local law.**

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|--|-----------------------------|
| <ul style="list-style-type: none"> <li>• Families that have been evicted from Public Housing or by Section 8 owners for engaging in drug-related criminal activity or alcohol abuse will be denied admission for three years. However, if the person demonstrates a successful completion of a rehabilitation program and/or demonstrates that the circumstances leading to the eviction no longer exists, this requirement may be waived with prior approval from HCD.</li> <li>• If a family member fails to sign and submit consent forms for obtaining continuing eligibility factor verifications, assistance will be denied.</li> <li>• Denial or termination of assistance for cause shall be applicable for three years from the date of action by HCD/Subcontractor. Individuals convicted of fraud, bribery, or other felonious criminal activity, including attempted or threatened physical force against the person or property of HCD/Subcontractor or employees of HCD/Subcontractor, shall be denied assistance, including application for assistance, for a period of three years.</li> </ul> | <b>Criteria<br/>(cont')</b> |
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HCD/Subcontractor is not required to determine family criminal activity, but shall, at the initial screening, include on all applications standardized questions regarding criminal activity.

Determinations of the above will be based on credible evidence and/or the preponderance of evidence provided.

**Credible Evidence** is defined as documentation available through law enforcement agencies or officials, documentation available through the judicial system, written witness accounts in conjunction with reliable documentation from other credible evidence.

**Preponderance of Evidence**, as quoted from Black's Law Dictionary, is "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it, that is, evidence which as a whole shows that the fact sought to be proved is more probable than not."

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Annual income shall not exceed the Very Low-Income Limit as established by HUD and published in the Federal Register.

**Income  
Limitations**  
[24 CFR  
982.201(b)]

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Families are required to provide Social Security numbers for all family members age six and older prior to admission, or certify they do not have a Social Security number. If the individual is under 18, his or her parent or guardian must execute the certification. When the individual obtains a Social Security number, it must be disclosed at the next regularly scheduled income reexamination.

**Social Security  
Numbers**  
[24 CFR 5.216]

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Verification is completed by the provision of a valid Social Security card issued by the Social Security Administration or other acceptable documentation of social security number such as a military I.D. card.

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The applicant must qualify as a family. A family may be a single person or a group of persons. Discrimination on the basis of familial status is prohibited and a group of persons may not be denied solely on the basis that they are not related by blood, marriage or operation of law.

**Family  
Composition**

[24 CFR  
982.201(c)]

A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the foster child's temporary absence from the home, and is not intended to artificially enlarge the space available for other family members.

A single person may be:

- An elderly person
- A displaced person
- A person with a disability
- Any "other single" person

**Head of Household:** The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law. Emancipated minors who qualify under State law will be recognized as head of household.

Only one adult person is designated as the head of household within the family.

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Section 214 of the Housing and Community Development Act of 1980 was amended by a Restriction on Assistance to Noncitizens, published in the Federal Register March 20, 1995. On May 12, 1999, the Federal Register published the Final Rule on the Restriction on Assistance to Noncitizens.

**Noncitizen  
Participation**

[24 CFR Part 5,  
Subpart E]

HCD/Subcontractor shall verify the eligibility of the individual of at least one family member *prior* to providing assistance.

All regulatory procedures in the implementation of Section 214 will be administered in a uniform manner prescribed without regard to race, national origin, or personal characteristics (e.g., accent, language spoken, or familial association with a noncitizen).

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### III. APPLYING FOR ADMISSION

Families may apply for any of HCD/Subcontractor programs by completing an application when applications are being accepted.	<b>How to Apply</b>
<p>The opening of the waiting list (accepting applications) shall be undertaken in accordance with HUD requirements and adequate notification shall be provided in accordance with the Administrative Plan under Family Outreach.</p> <p>If HCD/Subcontractor is taking applications on an open enrollment basis, HCD/Subcontractor may suspend intake of applications if the waiting list is such that additional applicants would not be assisted within 12 months.</p>	<p><b>Opening and Closing of Waiting List</b></p> <p>[24 CFR 982.206(a); 982.54(d)(1)]</p>
Applications will be accepted according to the open waiting list announcement. Applications will be date stamped when received in the Subcontractor's office and added to the waiting list accordingly.	<b>Accepting Applications</b>
A preference category has been established for admission as described below.	<b>Preference Categories</b>
<p>All families must indicate at the time of application if they qualify for the preference indicated below. Verification of the claimed preference is required prior to admission. If the preference claimed at the time of application submittal has changed upon verification, the application will be placed back on the waiting list in order of receipt by date and time.</p> <p><b>Preference 1:</b> Families involuntarily displaced by federal, state, or local government agencies by a declared disaster or by actions beyond the families' control (e.g., conversion of the rental unit to non-residential use) will be given consideration for the involuntarily displaced preference, if displacement occurred no more than six months from the date of the preference status certification. This does not apply to loss of residency due to evictions with cause. All families assisted under this category must be without housing. Victims of domestic violence are included in this category. <b>To be assisted, the family must be on the waiting list. Only when HUD provides <i>additional</i> funding for specifically named disasters, government actions, etc., will applications be accepted from those families not on the waiting list.</b></p> <p><b>Verification of Preference Claimed:</b></p> <p><b>Preference 1:</b> Documentation from government agency regarding displacement; documentation from owner/landlord verifying displacement due to owner action; documentation from social service providers/law enforcement agencies regarding displacement due to domestic violence.</p> <p>The waiting list will be organized according to date and time of application.</p>	<p><b>Waiting List Placement and Selection Criteria</b></p> <p>[24 CFR 982.204]</p>

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The QHWRA of 1998 requires that in each fiscal year not less than 75% of new admissions to the Section 8 Program must have incomes at or below 30% of the area median income (40% of new admissions for Moderate Rehabilitation units). HCD/Subcontractor shall monitor new admissions and, when necessary, admit applicants regardless of preferences or priorities to meet this requirement. When there is not a sufficient pool of extremely low-income families (30% of the area median income) on the waiting list, HCD/Subcontractor will conduct outreach efforts and open the waiting list to extremely low-income families only.

**Income Targeting**

[24 CFR  
982.201(b)(2)]

Income targeting is not applicable to: 1) conversion of a participant's assistance from the Certificate to the Voucher Program; 2) continuously assisted families; or 3) families subject to displacement as a result of the prepayment of a mortgage or voluntary termination of an eligible low-income housing contract.

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## IV. INCOME DETERMINATION

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Information provided by the applicant will be verified, including information on family composition, income, assets, allowances and deductions, preference status, full time student status, and other factors relating to eligibility determination **before** an applicant is issued a Housing Choice Voucher.

**Eligibility  
Determination**

[24 CFR 5.230]

Third party verifications (sent by mail) are preferred. Oral third party verifications are acceptable, if properly documented (date when verified and the name of the person providing the information). If third party verification is impossible, HCD/Subcontractor may use documents provided by the applicant. Documents, when allowed by law, will be photocopied. When documents cannot be photocopied, HCD/Subcontractor shall certify that they viewed the document(s), noting what document(s) were viewed, the source of information, the information obtained, and the documents shall be signed and dated by HCD/Subcontractor. If the third party verifications and documents cannot be provided, HCD/Subcontractor may accept a notarized applicant certification with the information provided. If third party verification cannot be obtained, HCD/Subcontractor shall document in the tenant file steps taken to obtain information.

[24 CFR  
982.516(a)(2)]

If additional information is needed to determine eligibility, HCD/Subcontractor will send a letter to the applicant, requesting the additional information be submitted within 10 working days. If there is no response after the 10 days, a second request will be sent allowing another 10 working days to respond. If there is no response to the second request for additional information, ***an ineligibility letter will be sent.***

After the verification process is completed, HCD/Subcontractor will make a final determination of eligibility based on verified data.

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Families claiming to have annual income less than \$3,600 or whose expenses exceed their income will be required to complete a Minimal/Zero Income Certification on a quarterly basis. Initially, families will be required to execute verification forms including unemployment benefits, TANF, SSI, etc., to ensure that other sources of income are not being received by the household.

**Minimal/Zero  
Income Status**

When expenses exceed the household's declared income, HCD/Subcontractor will discuss the discrepancy with the family to determine if there is any unreported income.

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For participants with little or no income, there will be no minimum tenant rent.

**Minimum Rent**



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Regular alimony and child support payments are counted as income. If the amount of child support or alimony received is less than the amount awarded by the court, HCD/Subcontractor will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and have made an effort to collect payments. Efforts to collect payments include filing with courts or appropriate agencies responsible for enforcing such payments.

**Alimony and  
Child Support**

[24 CFR  
5.609(b)(7)]

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HCD/Subcontractor **will not** reduce the family share of rent for families whose welfare assistance is reduced due to:

**Welfare Income  
Changes**

- Fraud;
- Failure to participate in an economic self-sufficiency program;
- Noncompliance with a work activity requirement.

The prohibition of rent reduction is not applicable if the welfare assistance is reduced due to the expiration of a lifetime limit on receiving benefits, or the family complied with welfare program requirements but is unable to obtain employment.

HCD/Subcontractor will obtain written verification from the welfare agency which indicates that the reduction was due to noncompliance or fraud **before** denying the request for rent reduction.

HCD/Subcontractor will notify the owner and family of the results of the reexamination of income, offering the family an opportunity for an informal hearing regarding the denial of the reduction of rent.

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In order to verify the net income from a business, HCD/Subcontractor will review IRS and financial documents from prior years and use this information to anticipate the income for the next 12 months.

**Net Income  
from a Business**

Acceptable methods of verification include one of the following:

1. IRS Form 1040, including: Schedule C (Small Business); Schedule E (Rental Property Income); Schedule F (Farm Income). If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense is computed using straight-line depreciation rules.
2. Audited or unaudited financial statement(s) of the business.
3. Credit report or loan application.
4. Documents such as Profit and Loss Statements, manifests, appointment books, cash books, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.
5. Family's self-certification as to net income realized from the business during previous years.

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If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

**Child Care  
Business**

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), HCD/Subcontractor will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of the customer.

If the family has filed a tax return, the family will be required to provide it.

If child care services were terminated, telephone verification is acceptable from the customer whose child was cared for.

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Regular contributions and gifts received from persons outside the household are counted as income for calculation of the Total Tenant Payment.

**Regular  
Contributions  
and Gifts**

Any contribution or gift received every two months or more frequently will be considered a “regular” contribution or gift, unless the amount is less than \$600.00 per year. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts.

[24 CFR  
5.609(b)(7)]

If the family’s expenses exceed its known income, HCD/Subcontractor will inquire further about financial assistance/contributions and gifts.

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If a family is receiving recurring financial gifts, the family must complete a “Financial Gift” form which contains the following information:

**Recurring Gifts**

- The person who provides the financial gifts
- The amount of the financial gifts
- The regularity (dates) of the financial gifts
- The purpose of the financial gifts

This self-certification may be used in conjunction with the Minimal/Zero Income Certification for families reporting minimal/zero income.

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## V. VOUCHER ISSUANCE AND BRIEFINGS

The voucher size is determined by the occupancy standards and the family composition.

**Voucher Size**

HUD requires that HCD establish occupancy standards for the determination of Housing Choice Voucher size and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. These standards also must meet the minimum requirements of Housing Quality Standards (HQS).

**Occupancy Standards**

[24 CFR 982.402]

The occupancy standards for Housing Choice Voucher issuance determine the size of the voucher to be issued. The criteria and standards prescribed for the determination of unit size should apply to the majority of families. However, in some cases the relationship, age, sex, health, or handicap of a family member may warrant the assignment of a larger unit. Guidelines for maximum voucher issuance includes:

- Persons of different generations, persons of the opposite sex (excluding spouses), and unrelated adults, may have separate bedrooms;
- Children of the opposite sex may share a bedroom until one of the children reaches the age of six.
- Children should not share a bedroom with parents, but the family may choose to accept a one bedroom Voucher if they have one child under two years of age;
- Unborn children shall be included in the size of the household;
- Persons with verifiable medical needs or other extenuating circumstances may be provided a larger unit;
- Foster children are included when determining unit size;
- Live-in attendants will generally be provided a separate bedroom;
- Space will not be provided for a family member who is absent more than 90 consecutive days (e.g., member of the military);
- Families will not be required to use rooms other than bedrooms for sleeping purposes.

The following provides guidance on the above. *Subcontractors are required to request HCD's approval prior to issuing a larger size Voucher:*

<b><u>Voucher Size</u></b>	<b><u>Min. No. of Persons</u></b>	<b><u>Max. No. of Persons</u></b>
0-BDR.	1	2
1-BDR.	1	3
2-BDR.	2	4
3-BDR.	3	6
4-BDR.	6	8
5-BDR.	8	10
6 BDR	10	12

Children who are subject to a joint custody agreement but live with the parent who is a voucher applicant or recipient for at least 51% (183 non consecutive days) of the time will be considered members of that household.

**Joint Custody of Children**

[24 CFR 982.315]

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In cases when a family assisted under the Section 8 Program becomes divided into two families due to divorce, legal separation, or the division of the family, HCD/Subcontractor will review the situation and make a determination as to who will retain assistance, subject to the following:

**Voucher  
Determination  
for Split  
Households**

[24 CFR 982.315]

- The desires of the parties involved;
- Which party has custody of the dependent children;
- To whom the assistance was issued;
- Who remains in the unit;
- Whether domestic violence is involved.

Documentation to prove these items will be the responsibility of the requesting party. If documentation is not provided, HCD/Subcontractor reserves the right to determine who will receive assistance.

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Federal regulations allows for a family's brief absence from their unit. Absence means that no adult member will be residing in the unit. Absences exceeding 14 days must receive prior approval from HCD/Subcontractor. Family absences of 14 consecutive days or less are not subject to notification procedures.

**Absence from the  
Unit**

[24 CFR  
982.54(d)(10);  
982.551(b)(7)(i)]

Absences of up to 60 consecutive days, with prior written notification by the family, are acceptable. HCD/Subcontractor considers hospitalization, incarceration, family care, vacation, and employment as acceptable reasons for absences up to 60 days. The family's written notification to HCD/Subcontractor must include the beginning and ending dates of the absence, and the reason for the absence. The family must notify HCD/Subcontractor upon returning from the absence. It is understood that incarceration or hospitalization may prevent the prior approval; therefore, HCD/Subcontractor will allow seven (7) days after the beginning date of the incident for the family to provide proper written notice. Failure to receive prior written approval or failure to notify HCD/Subcontractor of a family absence that exceeds 14 days is grounds for termination of assistance.

If the family must leave the unit for more than 60 days, the unit will not be considered to be their principal place of residence and the family will be terminated from the Program. However, on a case-by-case basis, exceptions for an additional 30 days absence may be granted do to extenuating circumstances (i.e., hospitalization).

Persons not listed on the application/lease three months prior to the absence will not be recognized as a family member.

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If any adult member of the family leaves the household for more than 90 days, that adult member is considered permanently absent from the unit. The remaining adult member of the family must report, in writing, the change in family composition to HCD/Subcontractor who will then remove the absent adult as a family member.

**Permanently  
Absent**

[24 CFR 982.312]

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<p>Any adult not included on the application that has been in the unit for 14 consecutive days or more without HCD/Subcontractor approval, or a total of 30 days in a 12-month period, is considered to be living in the unit as an unauthorized household member.</p> <p>Absence of evidence of any other address will be considered verification that the visitor is a member of the household.</p> <p>Statements from neighbors and/or the landlord will be considered in making the determination.</p> <p>Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.</p> <p>The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and HCD/Subcontractor will terminate assistance because prior approval was not requested for the addition.</p> <p>Minors and college students who were part of the family, but who now live away from home during the school year and are no longer on the lease may visit for up to 120 days per year without being considered a member of the household.</p> <p>In a joint custody arrangement, if the minor is in the household less than 183 days per year, the minor will be considered to be a visitor and not a family member.</p>	<b>Visitors</b>
<p>HCD/Subcontractor may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources. However, the burden of proof that an individual has moved or lives elsewhere rests on the family.</p>	<b>Change in Family Composition</b>
<p>The purpose of the briefing is to provide new participants with the information contained in the Housing Choice Voucher packets. This will ensure that all participants are aware of their responsibilities if they fail to comply with their responsibilities.</p>	<b>Purpose of Briefings</b>  [24 CFR 982.301]
<p>Upon determination of eligibility, a briefing is scheduled, which the head of household is required to attend.</p> <p>Applicants are responsible for rescheduling briefing appointments. If the applicant does not reschedule and misses the scheduled briefing appointment, HCD/Subcontractor <b><i>may reject the application.</i></b> Rejection of the application means the applicant will be removed from the waiting list. The applicant will be notified in writing if the application is rejected for this reason. Applicants may reapply when applications are being taken.</p>	<b>Attendance Requirements</b>

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Briefings can either be in a group or held individually.

**Format**

The Voucher holders' packet shall contain the following:

- A general information brochure explaining the basics of the rental Program for landlord use;
- A current list of interested landlords and the address of their available property (if available);
- A list of Payment Standards;
- The HUD brochure A Good Place to Live;
- The HUD brochure on lead-based paint Protect Your Family;
- Conditions and procedures for notifying HCD/Subcontractor of changes that occur between annual reexams;
- Family Obligations and Responsibilities form;
- Utility schedule;
- Instructions on calculating gross rent; and
- Any supplemental material HCD/Subcontractor deems necessary.

HCD/Subcontractor will discuss the allowable deposits that can be collected by the owner; the conditions in the lease under which tenancy may be terminated, and the conditions under which Section 8 housing assistance may be terminated.

While the relationship between the tenant and landlord are the same as in the private housing market, the Section 8 recipients have the following additional obligations:

**Household Obligations**

[24 CFR 982.551]

1. The family must supply any information that is determined to be necessary in the administration of the Program, including submission of required evidence of citizenship or eligible immigration status.
2. The family must supply any information requested by HCD/Subcontractor for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with federal requirements.
3. The family must disclose and verify Social Security Numbers and must sign and submit consent forms for obtaining information as required by federal regulations.
4. All information supplied by the family must be true and complete.
5. Any HQS failures that are determined to be caused by the tenant, will be the tenant's responsibility to correct. If the failure is life threatening, the tenant must correct the defect within 24 hours. For other tenant-caused failures/defects, the tenant must correct the defect within 30 calendar days (or by any HCD/Subcontractor-approved extension).
6. The family must allow HCD/Subcontractor to inspect the unit at reasonable times and after reasonable notice (24 hours).
7. The family may not commit any serious or repeated violation of the lease.
8. The family must notify the owner and, at the same time, notify HCD/Subcontractor no less than 30-days prior to when the family intends to move out of the unit or terminate the lease.
9. The family must promptly give HCD/Subcontractor a copy of any owner eviction notice.

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10. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
  11. HCD/Subcontractor must approve the composition of the assisted family residing in the unit. The family must promptly inform HCD/Subcontractor of the birth, adoption or court-awarded custody of a child. The family must, within 10 working days, request, in writing, HCD/Subcontractor approval to add any other family member as an occupant of the unit.
  12. The family must, within 10 working days, notify HCD/Subcontractor in writing if any family member no longer resides in the unit.
  13. Prior approval from HCD/Subcontractor must be received before a foster child or a live-in aide may reside in the unit.
  14. Upon written approval of the landlord, members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.
  15. The family must not sublease or let the unit.
  16. The family must not assign the lease or transfer the unit.
  17. The family must supply any information or certification requested by HCD/Subcontractor to verify that the family is living in the unit.
  18. The family must not own or have any interest in the unit.
  19. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the Program.
  20. The members of the family may not engage in drug-related criminal activity, alcohol abuse or violent criminal activity.
  21. An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit.
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**Household  
Obligations  
(cont')**

The newly-issued voucher is valid for a period of 60 days from the date of issuance. A maximum of 60 additional days (approved in 30-day increments) may be approved if:

**Term of  
Vouchers**

- Extenuating circumstances (e.g., hospitalization or family emergency), which has affected the family's ability to find a unit within the 60 days;
- The voucher holder is disabled; or
- The family has evidence that they have made consistent efforts to locate a unit and requested assistance from HCD/Subcontractor to help locate a unit.

[24 CFR 982.303;  
982.54(d)(2)]

**The maximum voucher term is 120 days. However, disabled applicants are provided an additional 60 days (approved in 30-day increments if they are unable to find a unit which is accessible to them, a maximum voucher term of 180 days).**

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## VI. LEASE APPROVAL AND HAP/VOUCHER CONTRACT EXECUTION

Owners must provide their current address of residence or business. Owners must submit proof of ownership of the property and a Letter of Transfer of Authority if a management agent manages the property.

### Ownership Documentation

Unless the HAP contract was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. HCD may waive this restriction as a reasonable accommodation for a family member who is a person with a disability if the disability and reasonable accommodation can be verified. The family completes a "Request for Reasonable Accommodation" form. A "Verification of Need for Reasonable Accommodation" must be completed by an individual providing professional services that relate to the disability.

### Leasing to Relatives

A maximum of 110% of the HUD-published Fair Market rents is the Payment Standard for all counties, unless an exception payment standard has been approved by HUD.

### Payment Standard [24 CFR 982.503(b)]

The HCD/Subcontractor will make a determination as to the reasonableness of the rent that the owner is proposing in relation to comparable units on the private unassisted market. The market area for rent reasonableness comparables shall include the areas in which HCD/Subcontractor provides Section 8 Program services.

### Rent Reasonableness

[24 CFR 982.507]

Rent reasonableness determinations are made when units are placed under HAP contract for the first time *and* when owners request annual or special contract rent adjustments. HCD/Subcontractor will certify and document in the tenant file that the approved rent:

- Does not exceed rents charged by the owner for comparable unassisted units in the private market; and
- Is reasonable in relation to rents charged by other owners for comparable units in the private market.

The items used for rent reasonableness documentation include:

- Square footage;
- Number of bedrooms;
- Number of bathrooms;
- Location;
- Unit type;
- Quality;
- Amenities;
- Facilities;
- Date built; and
- Management and maintenance services.

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HCD/Subcontractor, for access by HUD/HCD, will maintain documentation of the rent reasonableness study for each unit leased.

**Rent  
Reasonableness  
(cont'd)**

HCD/Subcontractor will maintain a file(s) that includes comparable data on unassisted units in the private market. HCD/Subcontractor will compare the subject unit against selected units in the same area with similar characteristics. Adjustments will be made for favorable and unfavorable differences between the subject unit and the comparables. **The information on unassisted units will be updated on an annual basis.**

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After HCD/Subcontractor has reviewed the Request for Lease Approval and Lease, documented rent reasonableness, and conducted an inspection and approved the unit, HCD/Subcontractor approves the lease.

**Lease Approval/  
Disapproval**

[24 CFR 982.305]

If HCD/Subcontractor determines that the lease cannot be approved (i.e., fails the 40% Rule, fails rent reasonableness), the landlord and family will be notified and the reason(s) provided. HCD/Subcontractor will explain the problems to the owner and suggest how they may be corrected. If the problem can be corrected, HCD/Subcontractor will continue processing the Request for Lease Approval and Lease.

If the problem cannot be corrected after HCD/Subcontractor has negotiated with the owner, HCD/Subcontractor will inform the tenant that the lease is disapproved and the tenant should continue to search for eligible housing.

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Prior to HAP contract execution, HCD/Subcontractor will ensure that the income information is not more than 120 days old for participants, or not more than 60 days old for new admissions.

**HAP Contract  
Execution**

[24 CFR  
982.305(c)]

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A change of ownership will be processed upon receipt of a Payee Data Record (Std. 204) for the new owner, evidence of ownership, and a Letter of Authority Transfer, if applicable. Prior to the change of ownership being processed by HCD, any payments made to the previous owner will be the responsibility of the new owner to recover.

**Change in  
Ownership**

## VII. ANNUAL REEXAMINATIONS, INTERIM ADJUSTMENTS AND OTHER ACTIONS

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Families will be notified in writing 120 days in advance of the scheduled effective date of the reexamination. HCD/Subcontractor will use the same procedures for obtaining and verifying information that were used at admission. HCD/Subcontractor should compare the information the family reports against the family's most recent reexamination to identify any discrepancies and ask the family to explain them.

**Annual  
Reexaminations**  
[24 CFR 5.250;  
982.516(g);  
982.551(b)]

The following procedures will be followed for each reexamination:

- Reverification of family income and composition
- Unit inspection;
- Rent reasonableness verified, if the landlord is requesting a rent increase;
- The family and owner are notified of changes in subsidy and tenant rent.

The head of household, and any additional adult living in the unit, must have a current Form HUD-9886, *Authorization for Release of Information/Privacy Act Notice* on file any time verification of income is to be determined.

Families and owners must be notified in writing of the results of the reexamination and effective date of any changes.

Families who fail to cooperate with HCD/Subcontractor in providing the necessary information may be terminated from the Program.

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HCD/Subcontractor shall conduct an interim reexamination of family income/composition, whenever a change is reported.

**Interim  
Adjustments**

[24 CFR 982.516]

The family may request an interim reexamination of family income/composition when changes have occurred since the last determination. HCD/Subcontractor will conduct a family requested reexamination within 10 working days of the request.

If the interim reexamination indicates that the tenant rent will be reduced or increased by 10% or more, changes will take effect the first of the month following the determination, allowing for a minimum of 30 days notification to the tenant and landlord. If the increase/decrease is less than 10%, no change will be processed, but the documentation will become part of the tenant file.

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Any change in family income requires that families report income changes to HCD/Subcontractor within 10 working days (in writing) of when the change occurs.

**Reporting  
Changes in  
Income**  
[24 CFR  
982.516(c)]

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HCD/Subcontractor will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

**When Income Changes are Reported in a Timely Manner**

- Increase in tenant rent will be effective on the first of the month following at least 30-day notice of change to the tenant and the owner.
- Decreases in the tenant rent are effective the first of the month following that in which the change is reported. However, no rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results.

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If the family does not report income changes in writing within 10 working days to HCD/Subcontractor, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

**When Income Changes are NOT Reported in a Timely Manner**

- Increase in tenant rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to make a lump sum payment.
- Decrease in tenant rent will be effective on the first of the month following the month that the change was reported.

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“Processed in a timely manner” means that the change takes effect on the date it should, provided that the family has reported the change in a timely manner. If the change does not take effect on that date, HCD/Subcontractor has not processed the change in a timely manner.

**When Changes are not Processed by HCD/Subcontractor in a Timely Manner**

In this case, an increase will be effective after the required 30-day notice prior to the first of the month after completion of processing by HCD/Subcontractor.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

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## VIII. HOUSING QUALITY STANDARDS AND INSPECTIONS

No unit will be placed on the Section 8 Program unless Housing Quality Standards (HQS) are met. The units must continue to meet these standards as long as the family is on the Program. HCD/Subcontractor adheres to the acceptability criteria in Program regulations.

### HQS Guidelines

[24 CFR 982.401;  
982.405]

There are four types of inspections:

- Initial
- Annual
- Special
- Move-out: Move-out inspections will be completed within 15 working days and are required for units leased prior to October 1995, and when requested by either the tenant or landlord for units leased after October 1995.

At initial and annual inspections, the owner or tenant will be given not more than 30 days to correct the items noted as “fail” (extenuating circumstances could, with HCD/Subcontractor approval, extend the time limit). If after 30 days an extension has not been approved, the HAP payment will be abated for 30 days. After the 30 day abatement, if the repairs have not been made the HAP contract will be cancelled and the family will be required to find another unit for continued assistance.

### Clearing Deficiencies

[24 CFR  
982.404(a);  
982.453]

If the HAP contract is terminated due to the owner’s failure or refusal to correct the failed items, and the Section 8 tenant was required to move to another unit to continue receiving Section 8 Assistance, HCD/Subcontractor will not approve the vacated unit for a new Section 8 tenant for a minimum of one year, and will only approve the vacated unit upon receiving a written assurance from the owner that they will fulfill the requirements of the minimum HQS in the future.

### Owner Fails to Correct HQS Items

[24 CFR  
982.306(e)(4)]

If the HAP contract is terminated due to the tenant’s failure or refusal to correct the failed items, the tenant will be terminated from the Section 8 Program.

### Tenant Fails to Correct HQS Items

[24 CFR  
982.404(b)]

A landlord/owner, tenant, the Subcontractor or HCD may request to have the tenant’s unit inspected prior to the reexamination date. HCD/Subcontractor will schedule the inspection within five working days of the request.

### Request for Special Unit Inspection

[24 CFR  
982.405(c)]

## IX. PORTABILITY AND MOVES WITH CONTINUED ASSISTANCE

HCD/Subcontractor will allow voucher families to move to another locality and continue their rental assistance under the Housing Choice Voucher Program after the family has leased a unit for a minimum of one year in the county where the family established eligibility, or after the family has lived in the county for at least one year prior to admission to the Program. This requirement will be waived for tenants who are moving from one county to another within HCD's jurisdiction.

### Outgoing Vouchers

[24 CFR 982.353]

Exceptions to the one-year requirement may be requested, in writing, by the family for extenuating circumstances (e.g., healthcare, employment, etc.). HCD must approve the exception prior to the participant move.

HUD regulations stipulate that a housing authority will accept families with a valid Housing Choice Voucher from another PHA's jurisdiction. Each Subcontractor may choose to:

### Incoming Vouchers

[24 CFR 982.355]

- “Absorb” the incoming family by issuing a voucher, if funding is available;
- Administer the voucher from the initial PHA; or
- If a voucher becomes available at a later date, the Subcontractor may, at that time, “absorb” the portable voucher.

However, HCD may require the absorption of incoming portables based on: 1) overall Program lease rate; 2) to meet other HUD requirements; and/or, 3) for reasons as determined by HCD.

After the initial lease, family moves shall be limited to one move per 12-month period, unless one of the following requirements is met.

### Participant Moves

[24 CFR  
982.314;  
982.552(a)]

- When a mutual rescission between the owner and the tenant has been signed and a 30-day notice is included; or
- For good cause (the tenant must provide documentation, i.e., police reports, court order, etc.).

In either case, the tenant must provide proper notice (30-day written notice) to HCD/Subcontractor and landlord. If the tenant moves without the above-listed requirements, the tenant may be terminated from the Program.

## X. PROJECT-BASED VOUCHERS

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HCD will begin implementation of a project-based voucher component in fiscal year 2003-2004. A maximum of 20 percent of the baseline number of units shall be permitted to be project-based. A maximum of 25 percent of the dwelling units in any one building may have project-based voucher assistance, except for single-family dwellings and projects for the elderly and disabled.

**Percentage  
Limitation**

[24 CFR 983.2]

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Housing that is eligible to receive project-based vouchers includes existing housing, newly-constructed housing, and rehabilitated housing. Single-family dwellings are eligible for project-based vouchers. The locations of units selected to receive project-based voucher assistance shall be consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities.

**Eligible  
Properties**

[24 CFR  
983.7]

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All units shall be inspected and shall comply with Housing Quality Standards (HQS), both initially and annually thereafter. Within a project, however, a representative sample of project-based units may be inspected, rather than each unit individually.

**Housing Quality  
Standards**

[24 CFR 983.5 and  
24 CFR 982.401  
and 982.405]

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HCD/Subcontractor will advertise the availability of the project-based assistance in a newspaper of general circulation that serves the specific county. The advertisement shall be published once a week for three consecutive weeks and shall state that HCD/Subcontractor is accepting applications for project-based assistance for housing projects. The advertisement shall specify an application deadline of at least 20 days after the last date of publication of the advertisement, shall specify the number of units that HCD/Subcontractor estimates that it will be able to assist, and state that only applications submitted in response to the advertisement will be considered. The advertisement shall also state the HCD/Subcontractor selection policies.

**Unit Selection  
Policy,  
Advertising**

[24 CFR  
983.51]

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HCD shall enter into a contract of up to 10 years with owners whose units are selected to receive project-based vouchers. The contract term may be extended for such a period of time as is determined appropriate to achieve long-term affordability of the housing or to expand housing opportunities. All HAP contract extensions are contingent upon availability of future funds.

**Contract Terms**  
[24 CFR 983.151]

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Application procedures for the project-based component shall be the same as for the tenant-based component. Applicants referred by owners of units with project-based vouchers may be placed on the waiting list in accordance with waiting list policies and selection preferences. There will be one waiting list for both tenant-based and project-based vouchers. If an applicant on the waiting list rejects an offer of a project-based voucher or is rejected by the owner, the applicant shall maintain their position on the waiting list for the next available tenant-based voucher or project-based voucher. Applicants shall be required to notify HCD/Subcontractor within 7 days of an offer of a project-based voucher of their acceptance or rejection of the unit.

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**Tenant Selection**

Families with project-based vouchers may move from the assisted building after 12 months. HCD/Subcontractor will provide these families with a voucher. If no voucher is available at the time the family moves, HCD/Subcontractor shall give the family priority to receive the next available voucher.

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**Portability**

HCD shall provide vacancy payments for up to 60 days after a unit becomes vacant in an amount not to exceed the rent to the owner as provided by the HAP contract on the day the family vacated, provided that the vacancy was not the owner's fault and HCD/Subcontractor and the owner take action to minimize the likelihood and length of the vacancy. If no eligible family rents a vacant unit within 120 days (commencing on the first day of the month when the vacancy occurs), HCD may terminate its commitment to make any additional housing assistance payments for the balance of the HAP contract term.

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**Vacancies**

All other requirements pertaining to tenant-based vouchers also pertain to project-based vouchers, including, but not limited to, the maximum initial gross rent, rent to owner and rent adjustments; tenant rent payment; and income targeting requirements.

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## XI. HOMEOWNERSHIP PROGRAM

HCD will begin offering a homeownership program in the 2003-2004 fiscal year. The Section 8 homeownership program permits eligible participants in the Section 8 voucher program the option of purchasing a home with their Section 8 assistance rather than renting. Assistance can be used to purchase new or existing single-family homes, condominiums, or manufactured homes.

### General Provisions

[24 CFR 982.4]

Participation in the Section 8 homeownership program is voluntary. The program is open to all participants. Eligible applicants for the homeownership program must have completed an initial Section 8 lease term, may not owe HCD or any other housing authority any outstanding debt, and must meet eligibility criteria as follows:

### Eligible Participants

[24 CFR 982.4 and 982.982.627]

- Eligible Section 8 homeownership program participants must be first-time homebuyers, meaning that no member of the household has had an ownership interest in any residence during the three years preceding commencement of homeownership assistance. However, a single parent or displaced homemaker, who while married, owned a home with a spouse is considered a first-time homebuyer for purposes of this program.
- Eligible households must have at least one adult member who will own the home who is employed full time (a minimum of an average of 30 hours per week) and has been continuously employed full time for one year prior to execution of the sales agreement. However, disabled and elderly households are not subject to this requirement. At the time the family begins receiving homeownership assistance, the head of household, spouse, and/or other adult household members who will own the home must have a gross annual income of at least the Federal minimum hourly wage multiplied by 2000 hours. Except for elderly and disabled households, the minimum income requirement shall not include welfare assistance.

Eligible families must comply with the following requirements:

### Purchase Requirements

- Complete a homeownership counseling program prior to commencement of homeownership assistance;
- Locate a home to purchase within 180 days. For good cause, HCD/Subcontractor may extend the time to locate a home for additional thirty day increments. During the family's search for a home to purchase, their rental assistance shall continue;
- Submit a sales agreement containing specific components to HCD/Subcontractor for approval;
- Allow HCD/Subcontractor to inspect the proposed home to assure that the dwelling meets Housing Quality Standards;
- Select an independent professional inspector, pay for the inspection, and provide inspection report to HCD/Subcontractor for review. HCD/Subcontractor may disapprove the unit due to information contained in the report or for failure to meet federal Housing Quality Standards;

[24 CFR 982.628; 982.629; 982.630, 982.631, 982.632, 982.633]

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- Obtain approval of the proposed. The proposed financing terms must be submitted to and approved by HCD/Subcontractor prior to close of escrow. Balloon payment mortgages and adjustable rate mortgages are prohibited. If a mortgage is not insured by FHA, HCD will require the lender to comply with generally accepted mortgage underwriting standards consistent with those of HUD/FHA, GNMA, FNMA, FHLMC, California Housing Finance Agency, USDA Rural Housing Services or other private lending institution;
  - Agree, in writing, to comply with all family obligations under the Section 8 program and with HCD's homeownership policies. These obligations include complying with mortgage terms; not selling or transferring the home to anyone other than a member of the assisted family who resides in the home while receiving homeownership assistance; and supplying all required information to HCD/Subcontractor, including, but not limited to, annual verification of household income, notice of move out, and notice of mortgage default; and
  - Execute documentation as required by HUD and HCD, consistent with State and local law, securing HCD's right to recapture the homeownership assistance.
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Assistance is limited to: 15 years if the initial mortgage incurred to finance purchase has a term of 20 years or longer; 10 years in all other cases. Households that qualify as elderly at the start of homeownership assistance and households that qualify as disabled at any time during receipt of homeownership assistance are not held to this maximum term, however.

**Maximum  
Term of  
Homeownership  
Assistance**

[24 CFR982.634]

The amount of the monthly assistance payment will be based on three factors: the voucher payment standard for which the family is eligible; the monthly homeownership expense; and the family's household income. HCD/Subcontractor will pay the lower of either the payment standard minus the total family contribution or the family's monthly homeownership expenses minus the total family contribution. A family's monthly assistance payment may be changed in the month following annual recertification of the household income. The family will be responsible for the rest of the homeownership expenses, which are defined in the following paragraph.

**Amount of  
Monthly  
Assistance  
Payment**

[24 CFR 982.635]

Monthly homeownership expenses include all of the following: principal and interest on the initial mortgage, second mortgage and any mortgage insurance premium; real estate taxes and public assessments; homeowner's insurance; maintenance expenses per HCD allowance; costs of major repairs and replacements, per HCD allowance; utility allowance per HCD's schedule; principal and interest on mortgage debt incurred to finance major repairs, replacements or improvements for the home, including changes needed to make the home accessible; homeowner association dues, fees or regular charges assessed.

HCD will provide the lender with notice of the amount of the housing assistance payment prior to close of escrow and will pay the monthly assistance payment directly to the family, unless otherwise required by the lender. The family will be responsible to submit the entire mortgage payment to the lender unless the lender requires direct payment of HCD's monthly assistance payment.

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Families shall be permitted to continue homeownership assistance in a new unit, provided that they are still eligible as defined above. The family would not be required to undergo homeowner counseling prior to purchase of the new unit, however.

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**Move with  
Continued  
Assistance**

[24 CFR 982.637]

A family's homeownership assistance may be terminated if the family fails to comply with its obligations under the Section 8 program, HCD homeownership policies, or if the family defaults on the mortgage. The family must comply with the terms of any mortgage incurred to purchase the home. The family must provide HCD/Subcontractor with written notice of any sale or transfer of the home; any plan to move out of the home prior to the sale; changes in the family's household income and homeownership expenses on an annual basis; any notice of mortgage default received by the family; and any other notices which may be required pursuant to HCD homeownership policies. Homeownership assistance will only be provided while the family resides in the home.

**Termination of  
Homeownership  
Assistance**

[24 CFR 638]

A family's homeownership assistance may be changed in the month following annual recertification of the household income, but participation in the homeownership program shall continue until such time as the assistance payment amounts to \$0 for a period of six consecutive months. After that time, the homeownership assistance will be terminated.

A participant in the homeownership program shall be entitled to the same termination notice and informal hearing procedures as set forth in the following section of the Administrative Plan.

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The homeownership assistance provided to a family may be subject to total or partial recapture upon the sale or refinancing of the home. Sales proceeds that are used by the family to purchase a new home with Section 8 homeownership assistance are not subject to recapture. Further, a family may refinance their home to take advantage of lower interest rates without any recapture penalty, provided that no cash is taken out through the refinancing. The amount of homeownership assistance that is subject to recapture shall automatically be reduced in annual increments of 10% beginning one year from the purchase date. At the end of 10 years, the amount of homeownership assistance subject to recapture shall be zero.

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**Recapture of  
Homeownership  
Assistance**

[24 CFR 982.60]

## XII. DENIAL OR TERMINATION OF ASSISTANCE

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If the family has knowingly committed fraud in connection with the Section 8 Program, HCD/Subcontractor may terminate assistance and cancel the contract.

**Family Fraud**

[24 CFR  
982.551(k)]

If the family has misrepresented income, assets, or allowances, which would have caused an increase in the tenant portion of the rent, HCD/Subcontractor will recover any overpayment made as a result of tenant fraud or abuse.

**Option Not to Terminate:** If the family has misrepresented any facts that caused HCD to overpay assistance, HCD may choose not to terminate and may offer to continue assistance, provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement or reimburses HCD in full.

**Misrepresentation in Collusion with Owner:** If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, HCD **may** deny or terminate assistance.

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If the landlord has committed fraud or misrepresentation in connection with the Program, HCD/Subcontractor will terminate the contract and review the circumstances and family's involvement to determine if the family is eligible to relocate to another unit with continuation of assistance.

**Landlord Fraud**

[24 CFR 982.453]

HCD may bar the landlord from participation in the Section 8 Program for breach of the HAP contract.

HCD will make every effort to recover any overpayments made as a result of landlord fraud or abuse.

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The following criteria will be used to decide if a serious or repeated violation of the lease will result in a termination of assistance:

**Lease Violations**

[24 CFR  
982.310(a)&(d);  
982.551(e)]

- If the owner terminates tenancy through court action for serious or repeated violations of the lease;
  - If the owner notifies the family of termination of tenancy for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action;
  - If there are police reports, neighborhood complaints or other third party information, that has been verified by the HA.
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In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, HCD/Subcontractor has discretion to consider all of the circumstances in each case, including the seriousness of the case and the extent of participation or culpability of individual family members. HCD/Subcontractor may also review the family's more recent history and record of compliance, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

**Discretion to Deny or Terminate Assistance**

[24 CFR 982.552(c)(2)]

HCD may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. HCD may permit the other members of the family to continue in the Program.

A repayment agreement is a document entered into between HCD and a person who owes a debt to HCD. It contains the nature of the debt, the terms of the payment, any special provisions of the agreement, and the remedies available to HCD upon default of the agreement. The minimum monthly amount of a monthly payment for any repayment agreement is \$25.00. HCD will use a sliding scale system to determine the monthly payment.

**Repayment Agreement**

[24 CFR 982.552(c)(vii)]

#### **Payment Schedule for Monies Owed to HCD:**

<b>Initial Payment Due (% of Total Amount)</b>	<b>Amount Owed</b>	<b>Maximum Term</b>
30% - 35%	\$0 - \$500	3 – 6 months
30% - 35%	\$501 - \$1,000	6 - 10 months
20% - 30 %	\$1,001 +	12 - 18 months

HCD will not enter into a repayment agreement if a participating family already has a repayment agreement.

**Late Payments:** A payment will be considered to be in arrears if the payment is not received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day. HCD may grant an extension of up to five business days for extenuating circumstances. Monthly payments may be decreased in cases of family hardship, if requested with reasonable notice from the family, provided that the hardship is verified.

If the family's repayment agreement is in arrears three times during the term of the agreement, HCD, after review of the circumstances leading to the nonpayment, may:

- Require the family to pay the balance in full;
- Pursue civil collection of the balance due; and/or
- Terminate the housing assistance.

The family may not move to another unit or port out until the repayment agreement is paid in full.

### XIII. INFORMAL REVIEW/HEARING

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An applicant must provide a written request to HCD/Subcontractor for an informal review of the decision to deny assistance. The written request must be delivered in person or postmarked within 10 working days from the date assistance was denied, and must state the reason(s) the applicant believes there should be a reconsideration (informal review) of the decision to deny assistance.

**Informal Review  
for Applicants**

[24 CFR 982.554]

HCD/Subcontractor shall schedule a date for an informal review and notify the applicant within 10 working days from the date the request was received. The informal review shall be conducted by an HCD/Subcontractor staff person other than the person who made or approved the decision under review or a subordinate of this person, and shall be conducted in the area where the family applied for assistance. A final decision shall be rendered within 15 working days after the informal review.

The review shall be tape-recorded. The recording shall only be transcribed, at the sole discretion of HCD/Subcontractor, when HCD/Subcontractor considers it necessary. Tape recordings shall be maintained for one year from the date of the review. HCD/Subcontractor shall identify the date, time, and principal attendees for the record. HCD/Subcontractor may determine relevance of information or testimony, may limit the length of presentations, and may reject threatening or abusive persons from the review. HCD/Subcontractor may request additional evidence, proof, or documentation from the family at the time of the review. HCD/Subcontractor shall specify a reasonable timeframe for the family to respond, after which no additional information shall be considered.

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HCD must provide applicants with the opportunity for an informal review of decisions denying:

**When Informal  
Reviews are  
Required**

1. Qualification for preference
2. Listing on HCD's/Subcontractor's waiting list
3. Issuance of a voucher
4. Participation in the Program

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Informal reviews are not required for established policies, procedures, and determinations, such as:

**When Informal  
Reviews are NOT  
Required**

1. Discretionary administrative determinations by HCD/Subcontractor
2. General policy issues or class grievances
3. A determination of the family unit size under HCD/Subcontractor subsidy standards
4. Refusal to extend or suspend a voucher
5. Disapproval of lease
6. Determination that unit is not in compliance with HQS
7. Determination that unit is not in accordance with HQS due to family size or composition

[24 CFR  
982.554(c)]

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HCD shall designate the branch chief that oversees the duties of the HAP Program Manager, or the branch chief's designee, as the Hearing Officer. The decision by the Hearing Officer shall be final and no further informal appeal shall be available from HCD.

**Informal  
Hearings for  
Participants**

[24 CFR 982.555]

A participant must provide a written request to HCD for an informal hearing by HCD. The written request must be delivered in person or postmarked within 10 working days from the date the tenant was notified of the disputed action, and must state the reason(s) the participant believes there should be a reconsideration (informal hearing) of the proposed or stated action by HCD/Subcontractor. If a written request is not received within the 10 working days, the participant will forfeit the right to an informal hearing.

HCD shall schedule a date for an informal hearing and notify the participant and HCD/Subcontractor within 10 working days from the date the request was received. The hearing shall be conducted at HCD/Subcontractor's designated site. The hearing may be conducted by telephone if acceptable to both parties. A final decision shall be rendered within 15 working days after the informal hearing.

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HCD must provide participants with the opportunity for an informal hearing for decisions related to any of the following HCD determinations:

**When Informal  
Hearings are  
Required**

1. Determination of the family's annual or adjusted income and the computation of the housing assistance payment
2. Appropriate utility allowance used from schedule
3. Family unit size determination under HCD subsidy standards
4. Determination to terminate assistance for any reason
5. Determination to terminate a family's FSS Contract, withhold supportive services, or propose forfeiture of the family's escrow account
6. Determination not to reduce a family's portion of rent because of: 1) family's noncompliance with welfare requirements; or 2) welfare fraud.

[24 CFR  
982.555(a)]

HCD/Subcontractor must always provide the opportunity for an informal hearing before terminating assistance.

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Informal hearings are not required for established policies, procedures and determinations, such as:

**When Informal Hearings are NOT Required**

1. Discretionary administrative determinations by the HA
2. General policy issues or class grievances
3. Establishment of the HCD schedule of utility allowances for families in the Program
4. An HCD determination not to approve an extension of a voucher
5. An HCD determination not to approve a unit or lease
6. An HCD determination that an assisted unit is not in compliance with HQS (HCD must provide a hearing for family breach of HQS because that is a family obligation determination)
7. An HCD determination that the unit is not in accordance with HQS because of the family size
8. An HCD determination to exercise or not to exercise any right or remedy against the owner under a HAP contract

[24 CFR  
982.555(b)]

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**Right to “Discovery”** The family’s right to discovery is stated in the Federal regulations (Section 982.555). HCD also elects to establish its right to discovery. Prior to the informal hearing date, the family must provide to HCD/Subcontractor, any new family documents that are directly relevant to the hearing and that the family intends to introduce at the informal hearing. HCD/Subcontractor shall be given an opportunity to examine and to copy any such document(s) at HCD/Subcontractor expense. The document examination shall be allowed at the Subcontractor’s office prior to the informal hearing. If the family does not make the document available for examination, the Hearing Officer may determine that consideration shall not be given to the document for the purposes of the informal hearing.

**Family’s Right to Discovery**

[24 CFR  
982.555(e)(2)]

The Hearing Officer shall conduct the hearing. The hearing shall be tape recorded. The recording shall only be transcribed, at the sole discretion of HCD, when HCD considers it necessary. Tape recordings shall be maintained for one year from the date of the hearing. The Hearing Officer shall identify the date, time, and principal attendees for the record. The Hearing Officer may determine relevance of information or testimony, may limit the length of presentations, and may reject threatening or abusive persons from the hearing. The Hearing Officer may request additional evidence, proof, or documentation from the family at the time of the hearing. The Hearing Officer shall specify a reasonable timeframe for the family to respond, after which no additional information shall be considered.

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## **XIV. HCD/SUBCONTRACTOR ERRORS**

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If HCD makes a calculation error at admission to the Program or at an annual reexamination, an interim reexamination will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. Families will be given decreases, when applicable, retroactive to when the decrease for the change would have been effective if the change had been calculated correctly.

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**Calculation  
Errors**

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## XV. TERMINOLOGY

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**Abuse of Alcohol:** When it is determined that a household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

**Disability:** Used where "handicap" was formerly used.

**Drug-related activity:** The felonious manufacture, sale or distribution, or the possession with intent to manufacture, sell or distribute a controlled substance. (The felonious use or possession of a controlled substance must have occurred within one year before the date that HCD/Subcontractor provides notice to an applicant/participant of HCD's/Subcontractor's determination to deny admission or terminate assistance.)

**Failure to Provide:** Refers to all requirements in the first Family Obligation and Responsibilities.

**Family:** Used interchangeably with "Applicant" or "Participant" or "Household". Can refer to a single person family.

**Group of Persons:** A group of persons may be:

- Two or more persons who intend to share residency whose income and resources are available to meet the family's needs
- Two or more elderly or disabled persons living together, or one elderly or disabled person living with one or more live-in aides is a family

**Head of Household:** The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law. Emancipated minors who qualify under State law will be recognized as head of household.

**HQS:** The Housing Quality Standards required by regulations as enhanced by HCD.

**Landlord:** Used interchangeably with "owner".

**Mixed Family:** A family including citizens or eligible immigrants and members without citizenship or eligible immigration status.

**Non-citizens Rule:** Refers to the regulation effective June 19, 1995 restricting assistance to U.S. citizens and eligible immigrants.

**Tenant:** Used to refer to participants in terms of their relationship to landlords.

**Violent criminal activity:** Includes any felonious criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property of another.

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